

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) FN-102F-US			
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>November 22, 2010</u></p> <p>Signature <u>/Gerardo Ubau/</u></p> <p>Typed or printed name <u>Gerardo Ubau</u></p>	Application Number  10/608,784	Filed  June 26, 2003			
	First Named Inventor Eran Steinberg, et al.				
	Art Unit  2624	Examiner  Kathleen S. Yuan			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>43,132</u></p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></td><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><p><u>/Andrew Vernon Smith/</u> Signature</p><p><u>Andrew V. Smith</u> Typed or printed name</p><p><u>408-218-3315</u> Telephone number</p><p><u>November 22, 2010</u> Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>43,132</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>	<p><u>/Andrew Vernon Smith/</u> Signature</p> <p><u>Andrew V. Smith</u> Typed or printed name</p> <p><u>408-218-3315</u> Telephone number</p> <p><u>November 22, 2010</u> Date</p>
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<p><input type="checkbox"/> *Total of _____ forms are submitted.</p>					

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Inventors: Eran Steinberg, et al.

For: Modification of viewing parameters for digital images using face detection information

Pre-Appeal Conference Attachment Sheet

**THE REJECTION OF CLAIMS 1-15, 22-23, 41-55, 63-73 and 81-112 UNDER 35 USC SECTION 103 BASED ON THE COMBINATION OF Takei (US PATENT 5,353,058), Cosatto et al. (US PATENT 6,504,546) AND Yamada et al. (US PATENT 6,885,760), as well as further references for claims other than claims 1 and 85, REPRESENTS A CLEAR ERROR**

All of the pending claims require analyzing a luminance map of the digitally-acquired still image, including comparing the luminance map with patterns of luminance data that match face images; and based on the analyzing of the luminance map, identifying one or more groups of pixels that correspond to a face within a foreground region of the original digitally-acquired still image which has a certain resolution, wherein the identifying comprises one or more of sub-sampling and weighted sampling of the resolution of the image, including reducing a resolution of at least one or more portions of the image on which computations are performed, and wherein the identifying further comprises detecting the face in real time or near real time. This feature is not taught nor suggested by Takei nor any of the other references being relied upon by the Examiner.

Takei does not describe identifying one or more groups of pixels that correspond to a face, based on analyzing a luminance map of the digitally-acquired still image. Takei only identifies flesh colors within digital images, and does not even determine whether any identified flesh color pixels correspond to faces. Luminance and color are two entirely different parameters. Relying on the identification of flesh colors to find faces in digital images leads to wrongly identifying objects containing flesh colors as being faces beyond a satisfactory tolerance.

Takei does not detect faces in real-time nor near real-time. As indicated above, Takei does not even detect faces. Moreover, the time- and resource-intensive processes described by Takei simply do not permit real-time nor near real-time performance.

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In addition, none of the other relied upon references, such as Cosatto and Yamada, disclose these features.

Takei describes methods for making pre-acquisition adjustments in acquisition conditions or parameters, specifically exposure (see col. 8, line 430-col. 9, line 5). Takei provides a correction signal which serves to adjust detector sensitivity in sub-regions that include flesh colors and where backlighting is determined to prevail. In contrast, Applicants' invention as set forth at amended claims 1-15, 22-33, 41-55, 63-73 and 81-112 involves post-acquisition image processing or adjustment or modification of values of pixels of an acquired image. For example, Applicants' provide methods based on calculations in view of comparing desired luminance with actual luminance of a detected face in an acquired image. Such post-acquisition image processing per Applicants' invention represents a different technological endeavor than making Takei's pre-acquisition adjustments to acquisition conditions or parameters, such as affecting exposure by adjusting detector sensitivity.

In addition, Applicants' invention as set forth at Applicants' amended claims 1-15, 22-33, 41-55, 63-73 and 81-112 requires reducing the resolution of at least one or more portions of the image on which computations are performed by one or more of sub-sampling and weighted sampling of the resolution of the image, thereby providing more efficient methods. The Examiner concedes that Takei does not describe this feature, but cites Cosatto et al. However, Cosatto et al. represents non-analogous prior art and cannot be combined with Takei to reject any of Applicants' claims. Cosatto et al. is in the field of image synthesis for animation. Cosatto et al. do not start with an image acquired with a digital image acquisition device including a lens and an image sensor. As such, Cosatto et al. do not handle real image data of images of faces captured with a digital image acquisition device. The fields of animation and digital image capture and processing are simply non-analogous, and the Examiner is respectfully requested to withdraw this rejection, particularly since searching has not produced any sufficient reference in the relevant field of Applicants' invention. Moreover, neither does Yamada disclose this feature.